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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,853	06/06/2000	Robert A. Law	F-126	9620

7590

02/26/2003

Angelo N Chaclos  
Pitney Bowes Inc  
Intellectual Property and Technology Law Dept  
35 Waterview Drive P O Box 3000  
Shelton, CT 06484

EXAMINER

WEAVER, SCOTT LOUIS

ART UNIT

PAPER NUMBER

2645

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/588,853

Applicant(s)

LAW, ROBERT A.

Examiner

Scott L. Weaver

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 18-22 is/are allowed.
- 6) ☒ Claim(s) 1,3,7 and 9 is/are rejected.
- 7) ☒ Claim(s) 2,4-6,8 and 10-112 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### **Part III DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/10/03 has been entered.

2. Applicant's arguments filed 2/10/03 with respect to claims 1-13 and 18-22 have been considered but are not deemed persuasive.

#### ***Drawings***

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required should the application be indicated as allowed.

#### ***Claim Rejections - 35 U.S.C. § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371<sup>®</sup> of this title before the invention thereof by the applicant for patent.

5. Claims 1, 3, 7, and 9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Porter (#5,963,618).

The claims as presented clearly read on Porter which teaches voice processing system 520 figure 5 corresponding to the Messaging systems as claimed which are used by message senders for generating messages, there can be more than one (via col.13,ln.63-col.14,ln.17). The remarks suggest the systems are of the senders, however the claims as presented merely state that the sender uses the system to generate a message. A data center, in as far as such is 'for storing a recipient preference profile' is taught by the database in Porter which is accessed by control system and the voice processing system 'utilizes the information to determine how to process the recorded message' (col.11,ln.54-60).

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### ***Response to Arguments***

6. Applicant's arguments filed 2/10/03 have been fully considered but they are not persuasive.

The remarks indicate the difference not taught by the reference and that claimed is that the reference does not "generate" the message but only receives and processes the message. However, the examiner can not agree that this is a difference as the generation being suggested is claimed as being by the message senders using the system to generate messages, the system claimed does not generate the message content as a user is required to compose the message, the reference clearly teaches this suggested difference.

The remarks indicate that no prima facie case for the rejection has been established, the examiner can not agree with this statement as the above rejection and reading of the reference as particularly pointed out above clearly teach the limitations of the claims indicated as the limitations are currently presented.

With respect to the previous remark that the reference does not teach a messaging system used by a message sender to generate a message intended for a recipient using the recipient profile but instead teaches a sender using a system to receive a message, the examiner can not agree with this statement. It is not clear where the applicant interprets a sender using the system for receiving a message. Clearly the reference refers to forwarding calls (which are made to the recipient) to the voice mail system such that the caller (sender) can record a message for the recipient thereof. The reference via col.11,ln.54-60 clearly refers to the profile of the recipient being used to process a message from a caller (sender), not a message sender sending a message to themselves.

### ***Conclusion***

7. Claims 13 and 18-22 are allowable. Claims 2, 4-6, 8, and 10-12 are objected to but would be allowable if rewritten to include the limitations of the base and intervening claims.

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8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872 9314


(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Weaver whose telephone number is (703) 308-6974. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4750, TC 2600 Customer Service is at 703-306-0377.

  
SCOTT L. WEAVER  
PRIMARY EXAMINER  
Art Unit 2645